

1 AMENDMENT TO SENATE BILL 694

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 694 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by  
5 adding Article XIX as follows:

6 (220 ILCS 5/Art. XIX heading new)

7 ARTICLE XIX. ALTERNATIVE GAS SUPPLIER LAW

8 (220 ILCS 5/19-100 new)

9 Sec. 19-100. Short title. This Article may be cited as  
10 the Alternative Gas Supplier Law.

11 (220 ILCS 5/19-105 new)

12 Sec. 19-105. Definitions. For the purposes of this  
13 Article, the following terms shall be defined as set forth  
14 in this Section.

15 "Alternative gas supplier" means every person,  
16 cooperative, corporation, municipal corporation, company,  
17 association, joint stock company or association, firm,  
18 partnership, individual, or other entity, their lessees,  
19 trustees, or receivers appointed by any court whatsoever,  
20 that offers gas for sale, lease, or in exchange for other

1 value received to one or more customers, or that engages in  
2 the furnishing of gas to one or more customers, and shall  
3 include affiliated interests of a gas utility, resellers,  
4 aggregators and marketers, but shall not include (i) gas  
5 utilities (or any agent of the gas utility to the extent the  
6 gas utility provides tariffed services to customers through  
7 an agent); (ii) public utilities that are owned and operated  
8 by any political subdivision, public institution of higher  
9 education or municipal corporation of this State, or public  
10 utilities that are owned by a political subdivision, public  
11 institution of higher education, or municipal corporation and  
12 operated by any of its lessees or operating agents; (iii)  
13 residential natural gas cooperatives that are not-for-profit  
14 corporations established for the purpose of administering and  
15 operating, on a cooperative basis, the furnishing of natural  
16 gas to residences for the benefit of their members who are  
17 residential consumers of natural gas; and (iv) the ownership  
18 or operation of a facility that sells compressed natural gas  
19 at retail to the public for use only as a motor vehicle fuel  
20 and the selling of compressed natural gas at retail to the  
21 public for use only as a motor vehicle fuel.

22 "Gas utility" means a public utility, as defined in  
23 Section 3-105 of this Act, that has a franchise, license,  
24 permit, or right to furnish or sell gas or transportation  
25 services to customers within a service area.

26 "Residential customer" means a customer who receives gas  
27 utility service for household purposes distributed to a  
28 dwelling of 2 or fewer units which is billed under a  
29 residential rate or gas utility service for household  
30 purposes distributed to a dwelling unit or units which is  
31 billed under a residential rate and is registered by a  
32 separate meter for each dwelling unit.

33 "Service area" means (i) the geographic area within which  
34 a gas utility was lawfully entitled to provide gas to

1 customers as of the effective date of this amendatory Act of  
2 the 92nd General Assembly and includes (ii) the location of  
3 any customer to which the gas utility was lawfully providing  
4 gas utility services on such effective date.

5 "Tariffed service" means a service provided to customers  
6 by a gas utility as defined by its rates on file with the  
7 Commission pursuant to the provisions of Article IX of this  
8 Act.

9 "Transportation services" means those services provided  
10 by the gas utility that are necessary in order for the  
11 storage, transmission and distribution systems to function so  
12 that customers located in the gas utility's service area can  
13 receive gas from suppliers other than the gas utility and  
14 shall include, without limitation, standard metering and  
15 billing services.

16 (220 ILCS 5/19-110 new)

17 Sec. 19-110. Certification of alternative gas suppliers.

18 (a) The provisions of this Section shall apply only to  
19 alternative gas suppliers serving or seeking to serve  
20 residential customers and only to the extent such alternative  
21 gas suppliers provide services to residential customers.

22 (b) An alternative gas supplier must obtain a  
23 certificate of service authority from the Commission in  
24 accordance with this Section before serving any customer or  
25 other user located in this State. An alternative gas  
26 supplier may request, and the Commission may grant, a  
27 certificate of service authority for the entire State or for  
28 a specified geographic area of the State. A person,  
29 corporation, or other entity acting as an alternative gas  
30 supplier on the effective date of this amendatory Act of the  
31 92nd General Assembly shall have 180 days from the effective  
32 date of this amendatory Act of the 92nd General Assembly to  
33 comply with the requirements of this Section in order to

1 continue to operate as an alternative gas supplier.

2 (c) An alternative gas supplier seeking a certificate of  
3 service authority shall file with the Commission a verified  
4 application containing information showing that the applicant  
5 meets the requirements of this Section. The alternative gas  
6 supplier shall publish notice of its application in the  
7 official State newspaper within 10 days following the date of  
8 its filing. No later than 45 days after the application is  
9 properly filed with the Commission, and such notice is  
10 published, the Commission shall issue its order granting or  
11 denying the application.

12 (d) An application for a certificate of service  
13 authority shall identify the area or areas in which the  
14 applicant intends to offer service and the types of services  
15 it intends to offer. Applicants that seek to serve  
16 residential customers within a geographic area that is  
17 smaller than a gas utility's service area shall submit  
18 evidence demonstrating that the designation of this smaller  
19 area does not violate Section 19-115. An applicant may state  
20 in its application for certification any limitations that  
21 will be imposed on the number of customers or maximum load to  
22 be served.

23 (e) The Commission shall grant the application for a  
24 certificate of service authority if it makes the findings set  
25 forth in this subsection based on the verified application  
26 and such other information as the applicant may submit.

27 (1) That the applicant possess sufficient  
28 technical, financial, and managerial resources and  
29 abilities to provide the service for which it seeks a  
30 certificate of service authority. In determining the  
31 level of technical, financial, and managerial resources  
32 and abilities which the applicant must demonstrate, the  
33 Commission shall consider the characteristics, including  
34 the size and financial sophistication of the customers

1 that the applicant seeks to serve, and shall consider  
2 whether the applicant seeks to provide gas using  
3 property, plant, and equipment that it owns, controls, or  
4 operates.

5 (2) That the applicant will comply with all  
6 applicable federal, State, regional, and industry rules,  
7 policies, practices, and procedures for the use,  
8 operation, and maintenance of the safety, integrity, and  
9 reliability of the gas transmission system.

10 (3) That the applicant will comply with such  
11 informational or reporting requirements as the Commission  
12 may be rule establish.

13 (4) That the area to be served by the applicant and  
14 any limitations it proposes on the number of customers or  
15 maximum amount of load to be served meet the provisions  
16 of Section 19-115, provided, that if the applicant seeks  
17 to serve an area smaller than the service area of a gas  
18 utility or proposes other limitations on the number of  
19 customers or maximum amount of load to be served, the  
20 Commission can extend the time for considering such a  
21 certificate request by up to 90 days, and can schedule  
22 hearings on such a request.

23 (5) That the applicant will comply with all other  
24 applicable laws and rules.

25 (f) The Commission shall have the authority to  
26 promulgate rules to carry out the provisions of this Section.  
27 Within 30 days after the effective date of this amendatory  
28 Act of the 92nd General Assembly, the Commission shall adopt  
29 an emergency rule or rules applicable to the certification of  
30 those gas suppliers that seek to serve residential customers.  
31 Within 180 days of the effective date of this amendatory Act  
32 of the 92nd General Assembly, the Commission shall adopt  
33 rules that specify criteria which, if met by any such  
34 alternative gas supplier, shall constitute the demonstration

1 of technical, financial, and managerial resources and  
 2 abilities to provide service required by item (1) of  
 3 subsection (e) of this Section, such as a requirement to post  
 4 a bond or letter of credit, from a responsible surety or  
 5 financial institution, of sufficient size for the nature and  
 6 scope of the services to be provided, demonstration of  
 7 adequate insurance for the scope and nature of the services  
 8 to be provided, and experience in providing similar services  
 9 in other jurisdictions.

10 (220 ILCS 5/19-115 new)

11 Sec. 19-115. Obligations of alternative gas suppliers.

12 (a) The provisions of this Section shall apply only to  
 13 alternative gas suppliers serving or seeking to serve  
 14 residential customers and only to the extent such alternative  
 15 gas suppliers provide services to residential customers.

16 (b) An alternative gas supplier shall:

17 (1) comply with the requirements imposed on public  
 18 utilities by Sections 8-201 through 8-207, 8-301, 8-505  
 19 and 8-507 of this Act, to the extent that these Sections  
 20 have application to the services being offered by the  
 21 alternative gas supplier; and

22 (2) continue to comply with the requirements for  
 23 certification stated in Section 19-110.

24 (c) An alternative gas supplier shall obtain verifiable  
 25 authorization from a customer, in a form or manner approved  
 26 by the Commission, before the customer is switched from  
 27 another supplier.

28 (d) No alternative gas supplier shall:

29 (1) enter into or employ any arrangements which  
 30 have the effect of preventing any customer from having  
 31 access to the services of the gas utility in whose  
 32 service area the customer is located; or

33 (2) charge customers for such access.

1       (e) An alternative gas supplier that is certified to  
2 serve residential customers shall not:

3           (1) deny service to a customer or group of  
4 customers nor establish any differences as to prices,  
5 terms, conditions, services, products, facilities, or in  
6 any other respect, whereby such denial or differences are  
7 based upon race, gender, or income; or

8           (2) deny service based on locality, nor establish  
9 any unreasonable difference as to prices, terms,  
10 conditions, services, products, or facilities as between  
11 localities.

12       (f) An alternative gas supplier shall comply with the  
13 following requirements with respect to the marketing,  
14 offering, and provision of products or services:

15           (1) Any marketing materials which make statements  
16 concerning prices, terms, and conditions of service shall  
17 contain information that adequately discloses the prices,  
18 terms and conditions of the products or services.

19           (2) Before any customer is switched from another  
20 supplier, the alternative gas supplier shall give the  
21 customer written information that adequately discloses,  
22 in plain language, the prices, terms, and conditions of  
23 the products and services being offered and sold to the  
24 customer.

25           (3) The alternative gas supplier shall provide to  
26 the customer:

27            (A) itemized billing statements that describe  
28 the products and services provided to the customer  
29 and their prices; and

30            (B) an additional statement, at least  
31 annually, that adequately discloses the average  
32 monthly prices, and the terms and conditions, of the  
33 products and services sold to the customer.

34       (g) An alternative gas supplier may limit the overall

1 size or availability of a service offering by specifying one  
2 or more of the following:

3 (1) a maximum number of customers and maximum  
4 amount of gas load to be served;

5 (2) time period during which the offering will be  
6 available; or

7 (3) other comparable limitation, but not including  
8 the geographic locations of customers within the area  
9 which the alternative gas supplier is certificated to  
10 serve.

11 The alternative gas supplier shall file the terms and  
12 conditions of such service offering including the applicable  
13 limitations with the Commission prior to making the service  
14 offering available to customers.

15 (h) Nothing in this Section shall be construed as  
16 preventing an alternative gas supplier that is an affiliate  
17 of, or which contracts with, (i) an industry or trade  
18 organization or association, (ii) a membership organization  
19 or association that exists for a purpose other than the  
20 purchase of gas, or (iii) another organization that meets  
21 criteria established in a rule adopted by the Commission from  
22 offering through the organization or association services at  
23 prices, terms and conditions that are available solely to the  
24 members of the organization or association.

25 (220 ILCS 5/19-120 new)

26 Sec. 19-120. Commission oversight of services provided  
27 by gas suppliers.

28 (a) The provisions of this Section shall apply only to  
29 alternative gas suppliers serving or seeking to serve  
30 residential customers and only to the extent such alternative  
31 gas suppliers provide services to residential customers.

32 (b) The Commission shall have jurisdiction in accordance  
33 with the provisions of Article X of this Act to entertain and

1 dispose of any complaint against any alternative gas supplier  
2 alleging that:

3 (1) the alternative gas supplier has violated or is  
4 in nonconformance with any applicable provisions of  
5 Section 19-110 or Section 19-115;

6 (2) an alternative gas supplier has failed to  
7 provide service in accordance with the terms of its  
8 contract or contracts with a customer or customers;

9 (3) the alternative gas supplier has violated or is  
10 in nonconformance with the transportation services tariff  
11 of, or any of its agreements relating to transportation  
12 services with, the gas utility or municipal system  
13 providing transportation services; or

14 (4) the alternative gas supplier has violated or  
15 failed to comply with the requirements of Sections 8-201  
16 through 8-207, 8-301, 8-505, or 8-507 of this Act as made  
17 applicable to alternative gas suppliers.

18 (c) The Commission shall have authority after notice and  
19 hearing held on complaint or on the Commission's own motion  
20 to:

21 (1) order an alternative gas supplier to cease and  
22 desist, or correct, any violation of or nonconformance  
23 with the provisions of Section 19-110 or 19-115;

24 (2) impose financial penalties for violations of or  
25 nonconformances with the provisions of Section 19-110 or  
26 19-115, not to exceed (i) \$10,000 per occurrence or (ii)  
27 \$30,000 per day for those violations or nonconformances  
28 which continue after the Commission issues a  
29 cease-and-desist order; and

30 (3) alter, modify, revoke, or suspend the  
31 certificate of service authority of an alternative gas  
32 supplier for substantial or repeated violations of or  
33 nonconformances with the provisions of Section 19-110 or  
34 19-115.

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".